

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

UNITED STATES OF AMERICA, *ex rel.*
ELGASIM MOHAMED FADLALLA, *et al.*,

Plaintiff,

V.

DYNCORP INTERNATIONAL LLC, *et al.*

Defendants.

Case No. 8:15-cv-01806-PX

**DEFENDANT DYNACORP
INTERNATIONAL LLC'S ANSWER
TO THE FIRST AMENDED COMPLAINT**

Defendant DynCorp International LLC (“DI”) is a defendant solely because DI owns a fifty-one percent membership interest in Defendant Global Linguist Solutions, LLC (“GLS”). The First Amended Complaint (“FAC” or “Complaint”) alleges no misconduct by DI. Instead, DI is wrongly alleged to be the alter-ego of its partially owned subsidiary GLS, notwithstanding the corporate separateness of DI and GLS and the absence of any of the extraordinary circumstances that would warrant “piercing the corporate veil” of GLS to reach DI, as well as the corporate separateness of the minority owner, which has been dismissed. Plaintiffs (“Relators”) have long sought a forum that they hope will ignore federal common law limitations on “piercing the corporate veil” and bring what are state law employment-based claims disguised as federal questions.

Initially, in Virginia, Relators filed claims under state law on the same set of facts against GLS and DI (and the other owner of GLS) over five years ago. Relators now attempt to revive these same employment and contract claims, dressed up as purported violations of the civil False Claims Act (“FCA”) and the Trafficking Victims Protection Reauthorization act (“TVPRA”). See 31 U.S.C. § 3729 *et seq.*; 18 U.S.C. § 1581 *et seq.* Relators hoped that the United States

would take up their FCA claims, but after a two year investigation, the United States declined to intervene.

Relators' suit against DI is frivolous and vexatious, and lacks a basis in fact or law. Therefore, DI requests that the FAC be dismissed with prejudice at Relators' costs and that this Court award reasonable attorneys' fees and expenses to DI under 31 U.S.C. § 3730(d)(4).

DI respectfully asserts the following defenses and affirmative defenses:

DEFENSES AND AFFIRMATIVE DEFENSES

First Defense

The Complaint fails to state claims against DI upon which relief can be granted. Because Relators fail to allege sufficient facts to pierce the corporate veil between DI and GLS, Relators fail to state a claim upon which relief can be granted against DI. DI and GLS are separate limited liability companies that, by virtue of their good standing in Delaware, are presumed to have observed the requisite corporate formalities required to maintain their separate identities – in the absence of contrary specific allegations stated by Relators. Moreover, none of the exceptional circumstances (fraud, injustice, lack of financial independence, ignoring corporate forms) necessary to reach DI by “piercing the corporate veil” are pled in the Complaint.

Second Defense

Some or all of the claims in the First Amended Complaint are barred by the statute of limitations. Specifically, claims stemming from actions before June 19, 2009 are barred.

Third Defense

Relators and the United States have suffered no damages or have failed to adequately plead that DI is the cause of any damages. DI caused no damages.

Fourth Defense

The Complaint fails to plead all fraud or false claims with sufficient particularity, as required under Fed. R. Civ. P. 9(b). Relators heavily rely upon information and belief pleading in support of the essential elements of their FCA claims. Relators improperly use group pleading to

lump multiple parties together and fail to describe the necessary details of the “who, what, where and when” of their claims, as required under Rule 9(b).

Fifth Defense

Relators assumed the risk of working as overseas contract employees assisting military operations in a battlefield or contingency zone. These risks were outlined in Relators’ employment contracts, in particular, the Foreign Service Agreements. In addition to these warnings and disclosures provided to Relators, many of the Relators had previous experience working with the U.S. military in battlefield and contingency operations and, therefore, knew the risks that further employment entailed. Therefore, Relators assumed any reasonably foreseeable risks arising out of the uncertainties and inherent dangers of employment assisting the U.S. military in battlefield and contingency operations.

Sixth Defense

By accepting highly compensated employment and bargained for wages earned for services in known war zones and assisting with battlefield and contingency operations, Relators waived all claims with respect to harsh conditions and other hardships foreseeable in a battlefield environment in exchange for the compensation they received and accepted.

Seventh Defense

This Court lacks subject-matter jurisdiction over Counts One, Two, and Three as against DI, and they are consequently barred, by virtue of the “public disclosure bar” of the False Claims Act (both the pre-2010 and amended version). Relators’ allegations with respect to DI are based upon or substantially the same as publicly disclosed information and Relators has not provided any independent knowledge or materially added to these public disclosures. Relators also failed to plead that they provided their information to the United States before filing this case. Therefore, Relators are not an original source under the statute. 31 U.S.C. § 3730(e)(4). Furthermore, because the United States had previous knowledge of Relators’ claims

from the publicly disclosed information, Relators cannot show that the claims that they allege were material to payment by the United States under the applicable contracts.

Eighth Defense

This Court lacks subject-matter jurisdiction over Count IV because the violations of the Trafficking in Persons Reauthorization Act, 22 U.S.C. § 7102, *et seq.*, alleged by Relators are not applicable to actions occurring outside of the United States.

Ninth Defense

Any claims related to injuries or other tortious conduct, whether intentional or negligent, that Relators claim occurred overseas under the contracts at issue, are exclusively remediable under the Defense Base Act, 42 U.S.C. § 1651, *et seq.* That statute provides that the “Longshore and Harbor Workers’ Compensation Act . . . as amended, shall apply in respect to the injury or death of any employee engaged in any employment” at any overseas military base, upon any overseas lands occupied or used by the U.S. military, or under any contract with or financed by the United States.

Tenth Defense

Relators’ claims alleging violations of Kuwaiti law are invalid under the Defense Cooperation Agreement signed by the Governments of Kuwait and the United States on September 19, 1991. That treaty includes a Status of Forces Agreement that provides that U.S. forces in Kuwait, including Department of Defense civilian contractors, are subject to U.S. law, rather than Kuwaiti law. This treaty has been reaffirmed in the years since 1991. See “Kuwait: Governance, Security, and U.S. Policy,” Congressional Research Service, RS21513 (Updated July 31, 2019).

Eleventh Defense

DI denies that it entered into a contract with the United States or Relators relevant to the allegations stated in the Complaint. Regarding any of the contracts alleged in the Complaint, DI asserts a lack of any contractual privity. Moreover, DI is not liable for any contract breaches or

other contract damages caused by force majeure, war, terrorism, natural disasters, civil disorder, labor action, actions of foreign governments, or other unforeseeable circumstances or actions of any other party, including the defendants. Where performance of any contract was rendered inadvisable, impracticable, or impossible because of events beyond the control of the contracting parties, DI is not liable for damages resulting from such events.

Twelfth Defense

DI is not liable for any injuries or other damages to any party in this action resulting from the actions of any other party in this proceeding.

Thirteenth Defense

Relators have engaged in impermissible forum shopping by repackaging and refiling this case, formerly filed in the Eastern District of Virginia, here in the District of Maryland. Relators should be equitably estopped from their attempts to revive their failed Virginia litigation.

Fourteenth Defense

DI hereby adopts and incorporates all defenses asserted by any other party to the extent applicable.

Fifteenth Defense

DI respectfully answers the specific paragraphs of the Complaint as follows:

1. Admit that Relators purport to bring claims against Defendants as set forth in the allegations of this paragraph. DI specifically denies that Relators are proper Relators under the FCA and denies all allegations not specifically admitted in paragraph 1.

2. The first and fifth sentences of this paragraph are denied. DI admits that GLS is stated as the contractor in Contract No. W911W4-08-D-0002, that the contract was awarded to GLS on or about December 6, 2007 ("Contract 1"). DI admits that GLS is listed as the contractor in Contract No. W911W4-11-D-0004 and that the contract was awarded to GLS on or about July 1, 2011 ("Contract 2"). DI admits that defendants Invizion, TigerSwan, Wright, and KMS were subcontractors on Contract 1 and that Shee Atika performed work for GLS. As to the other

allegations in paragraph 2, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies same.

3. DI admits that Contract 1 states, "The maximum of all orders under the contract is \$4.645 Billion." DI admits that Contract 1 called for provision of foreign language linguistic, interpretation, and translation services. All other allegations of paragraph 3 are denied.

4. DI admits that Contract 2 states, "The cumulative value for all task orders issued . . . shall not exceed the program ceiling of \$9,700,000,000.00" DI admits that Contract 2 called for provision of foreign language linguistic, interpretation and translation services All other allegations of paragraph 4 are denied.

5. DI admits that the following persons were employed by GLS or its subcontractors for some period of time: Akhtar Hayat, Ramzi Zinnekeh, Hamid Skili, Navdeep Kaur Tucker, Nimna Lakmali Jayasinghe Mudalige, Neil Magi, Haidar Alsaidi, Maryan Mure, Mahmoud Luttfi, Sadiq Al-Saidi, Maher Al-Masri, Edward Youkhana, Haider Al-Nakash, Noreldin Muhsen, Saad Kabbaj, Elgasim Mohamed Fadlalla, Parcham Khoshaba Mikhael, Faycal Maroufi, Majdi Abdulghani, Louai Salim, Nada Malek, Kidar Mohammad Alsafar, Antonio Antar, Waiel S. Mansour, Sinan Daoud Marrogy, Samah Fikri, Tebyan Alnawasreh, Ali Ibrahim Elsebaey, Ali Al-Taie. As to the other allegations of paragraph 5, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

6. Denied.

7. Denied.

8. Denied.

9. Denied.

10. Denied.

11. Denied.

12. All allegations of legal violations, misconduct, and improper conduct by DI are denied. DI lacks knowledge or information sufficient to form a belief regarding the truth of the remaining allegations of paragraph 12 and therefore denies the same.

13. Denied.

14. Denied.

15. Denied.

16. DI admits that the following persons were employed by GLS or its subcontractors for some period of time: Akhtar Hayat, Ramzi Zinnekeh, Hamid Skili, Navdeep Kaur Tucker, Nimna Lakmali Jayasinghe Mudalige, Neil Magi, Haidar Alsaidi, Maryan Mure, Mahmoud Luttfi, Sadiq Al-Saidi, Maher Al-Masri, Edward Youkhana, Haider Al-Nakash, Noreldin Muhsen, Saad Kabbaj, Elgasim Mohamed Fadlalla, Parcham Khoshaba Mikhael, Faycal Maroufi, Majdi Abdulghani, Louai Salim, Nada Malek, Kidar Mohammad Alsafar, Antonio Antar, Waiel S. Mansour, Sinan Daoud Marrogy, Samah Fikri, Tebyan Alnawasreh, Ali Ibrahim Elsebaey, Ali Al-Taie. DI admits that the following persons were employed by DI for some period of time: Neil Magi, Haidar Alsaidi, Maryan Mure, Mahmoud Luttfi, Sadiq Al-Saidi, Maher Al-Masri, Edward Youkhana, Haider Al-Nakash, Noreldin Muhsen, Saad Kabbaj, Elgasim Mohamed Fadlalla. As to the other allegations of paragraph 16, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

17. DI admits that it is a Delaware limited liability company with its principal place of business is at 1700 Old Meadow Road McLean, Virginia 22102. DI admits that DI provides certain support services to the U.S. military, and non-military U.S. government agencies, and foreign governments. All other allegations of paragraph 17 are denied.

18. DI admits that on August 27, 2010, it was announced that AECOM Technology Corporation, (NYSE: ACM) had completed its acquisition of McNeil Technologies, Inc. and that thereafter, ACM changed McNeil Technologies, Inc.'s name to AECOM National Security Programs Inc. DI admits that AECOM provides technical, management, and professional

consulting services to the U.S. AECOM self-describes as a company offering intelligence support, language, mission support, information technology (IT), national security, energy, labor, and logistical services. The remainder of the allegations of paragraph 18 are denied.

19. DI admits that it holds a 51% interest in Global Linguist Solutions, LLC (“GLS”). DI admits that GLS is a Delaware limited liability company. DI admits that the address listed in paragraph 19 is a former address for GLS. It is denied that DI “dominates” GLS. All other allegations in this paragraph are denied.

20. Denied.

21. Denied.

22. Denied.

23. DI admits that the June 11, 2009 Securities and Exchange Commission (“SEC”) Form 10-Q states that GLS is a “51% owned joint venture.” DI admits that the June 11, 2009 SEC Form 10-Q states “Our effective tax rate was impacted by the tax treatment of our GLS and DIFZ joint ventures which are consolidated for financial reporting purposes but are not consolidated for tax purposes as they are taxed as partnerships under the Internal Revenue Code.” All other allegations of paragraph 23 are denied.

24. DI admits that the June 15, 2019 SEC Form 10-K states “Global Linguist Solutions (‘GLS’) ... is a 51% owned joint venture.” All other allegations of paragraph 24 are denied.

25. DI admits the July 11, 2011 Press Release states “DynCorp International (DI) and AECOM today announced that global Linguist Solutions (GLS), a joint venture between DI and AECOM’s NSP unit, has been selected as one of six providers that will compete for task orders on the \$9.7 billion Defense Language Interpretation Translation Enterprise (DLITE) contract.” All other allegations of paragraph 25 are denied.

26. Denied.

27. Denied.

28. Denied.

29. DI admits that the value of the GLS contract with the U.S. Army is listed on its June 4, 2010 SEC 10-K disclosure statement, and DI refers therein to GLS as one of its own “segments.” All other allegations of paragraph 29 are denied.

30. DI admits the June 11, 2009 SEC Form 10-K states “*Global Linguist Solutions*: Revenue was \$709.1 million for the INSCOM contract through our GLS joint venture, which began in the fourth quarter of fiscal year 2008. Revenue also benefited from the recognition of the INSCOM contract award fee of \$30.4 million for fiscal year 2009. The award fee is based on achieving specific contract performance criteria, such as operation fill rates. Based on our contract performance history to date, we anticipate the ability to accrue award fees through the remaining life of the INSCOM contract.” All other allegations of paragraph 30 are denied.

31. DI admits that GLS financial statements were consolidated with DI financial statements for a certain period of time. All other allegations of paragraph 31 are denied.

32. DI admits that the First Amendment to GLS’s Amended and Restated Operating Agreement authorized DI to designate some Managers of GLS and to perform such duties as were permitted under the relevant corporate governance documents. All other allegations of paragraph 32 are denied.

33. Denied that DI testified at the CWC hearing on August 12, 2009. All other allegations of paragraph 33 are denied.

34. Denied.

35. DI admits that because GLS financial statements were consolidated with DI financial statements for a certain period of time, the Sarbanes-Oxley audit covering that period of time included an audit of some GLS information. All other allegations of paragraph 35 are denied.

36. Denied.

37. DI admits that DI provided some “back office” support to GLS for certain periods of time, including some of the time periods covered under Contracts 1 and 2. All other allegations of paragraph 37 are denied.

38. Denied.

39. DI admits that GLS employees were eligible for a 401(k) plan organized by DI at T. Rowe Price until 2015. All other allegations of paragraph 39 are denied.

40. DI admits that some GLS employees' time was recorded in <https://tls.dyn-intl.com> until January 13, 2015. All other allegations of paragraph 40 are denied.

41. Denied.

42. Denied.

43. Denied.

44. DI admits that some GLS personnel attended DI's corporate annual training for a period of time. All other allegations of paragraph 44 are denied.

45. DI admits that an individual named Samuel Sidamed was a GLS employee and Samuel.Sidamed@dyn-intl.com and Samuel.Sidamed@gls-1.com existed as email addresses. All other allegations of paragraph 45 are denied.

46. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations in paragraph 46 and therefore denies the same.

47. DI admits that an SEC Form 10-K for the fiscal year ended April 2, 2010 lists “Herndon, VA” and “Offices—GLS recruiting center” as a “leased propert[y].” All other allegations of paragraph 47 are denied.

48. DI admits that Greg Williams was a DI employee for a certain period of time. All other allegations of paragraph 48 are denied.

49. DI admits that bader.sultan@dyn-intl.com existed as an email address. All other allegations of paragraph 49 are denied.

50. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations of this paragraph and therefore denies the same.

51. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

52. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

53. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

54. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. DI admits that Solicitation No. W911W4-05-R-0001 was released on or about June 30, 2006 and that the government sought proposals for providing linguists to support U.S. military efforts in parts of the Middle East. All other allegations of paragraph 59 are denied.

60. DI admits that Contract 1 was awarded to GLS on or about December 6, 2007. All other allegations of paragraph 60 are denied.

61. DI admits that Contract 2 states, "The maximum of all orders under the contract is \$4.645 Billion." DI admits that the Executive Summary states, "The purpose of this requirement is to procure performance-based services for the rapid recruitment and deployment of foreign language Interpretation and Translation type services in support of the U.S. Army, acting as the Executive Agent for DoD for translator and interpreter services" and that "Linguist services are required to permit our forces to communicate effectively with the local populace, gather information for force protection, and interact with foreign military units. Since these

operations do not have predefined or predictable work locations, hours, or duration, the contractor shall provide interpretation and translation services as required by the supported forces up to 24 hours per day, 7 days per week for all operations. Linguists shall be at the specified site for a minimum of 8 hours per day, and may be extended for up to 12 hours, and on call for the remaining 12 hours, depending on mission requirements.” All other allegations of this paragraph 61 are denied.

62. DI admits that Contract 1 states “The specific linguist services may be bought on the basis of man-hours, man-days, man-months, man-years, task completion or linguists based on the specific work order.” All other allegations of paragraph 62 are denied.

63. DI admits that Contract 1 states in Section 2.1.1 to “provide translation and interpretation services for various specified contract required languages (SCRL).” All other allegations of paragraph 63 are denied.

64. DI admits that payments were made to GLS for the service of having linguists available in-theatre for translation and interpretation. All other allegations of paragraph 64 are denied.

65. DI admits that Contract 1, in Section 2.2, Deployment, states “The contractor shall ensure that the following tasks are performed for each deployed employee. All personnel obtain and maintain the necessary travel documents (i.e., passport, travel documents, visas, country clearances, work permits, etc.). All personnel are briefed on adherence to all laws and regulations of the host nation(s). All personnel are provided appropriate transportation, if government transportation is not available. All personnel, including subcontractors, shall comply with all . . . (ii) US Host Country, local and international laws and regulations and (iii) treaties and international agreements (e.g. Status of Forces Agreements, Host Nation Support Agreements, and Defense Technical Agreements), that are applicable to the contractor in the area of operations.” All other allegations of paragraph 65 are denied.

66. DI admits Section 2.3 of Contract 1 states “any other information the Contractor deems pertinent and important.” All other allegations of paragraph 66 are denied.

67. DI admits Section 3.0 of Contract 1 states, “7. Management of Small Business Sub-Contracting.” and “Shall meet standard 100% of the time.” All other allegations of paragraph 67 are denied.

68. DI admits Section H.1, Security Requirement, states, “The contractor shall maintain and administer a security program in accordance with the National Industrial Security Program Operations Manual (NISPOM) DoD 5220.22M.” All other all allegations of paragraph 68 are denied.

69. DI admits Section H.14 of Contract 1 states “There are multiple objectives for subcontracting emphasis, which shall be documented in a subcontracting plan and performed in accordance with the terms of this contract.” Admit Section H.14 states, “US Small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contract(s) resulting from this solicitation. Prime contractors shall establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.” Admit Section H.14 states, “c. Subcontracting. 1. Contractors will be required to achieve minimum levels of Small Business Participation as a requirement of the IDIQ Contract. Specifically, the following Small Business Participation is required: 25% to Small Business 5% to Small Disadvantaged Businesses 5% to Women-Owned Small Businesses 3% to HUBZone Small Businesses 3% to Service Disabled Veteran Small Businesses[.]” Admit Contract 1 states “2. Contractor shall submit to the contracting officer the following reports: Standard Form (SF)

294, Subcontracting Report for Individual Contracts, as a part of any submission for award fee determination, and at contract completion. The report shall provide information on subcontract awards to small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, women-owned small business concerns, and shall ensure that all US subcontractors agree to submit SF 294.” Admit Section H.14 states, “3. The failure of the Contractor or subcontractor to comply in good faith with its subcontracting plan required by this contract shall be a material breach of the contract.” All other allegations of paragraph 69 are denied.

70. DI admits that FAR 52.219-9 (2018) provides requirements for Small Business Subcontracting Plans for federal contracts where that clause is incorporated. All other allegations in paragraph 70 are denied.

71. DI admits that Contract 1 referenced participation levels for Small Businesses, Small Disadvantaged Businesses, Women-Owned Small Businesses, HUBZone Small Businesses, and Service Disabled Veteran Owned Small Businesses. All other allegations in paragraph 71 are denied.

72. DI admits that, pursuant to the FAR, subcontracts awarded to an ANC or Indian tribe would be counted towards the subcontracting goals for small business and small disadvantaged business concerns. All other allegations of paragraph 72 are denied.

73. DI admits that 15 U.S.C. § 631(a) states,

The essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. The preservation and expansion of such competition is basic not only to the economic well-being but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed. It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for maintenance, repair, and construction) be placed with small-business enterprises, to insure that a fair proportion of the total sales of Government property be

made to such enterprises, and to maintain and strengthen the overall economy of the Nation.

All other allegations of paragraph 73 are denied.

74. DI admits that 15 U.S.C. 637(d) encourages maximum practicable opportunity for small business concerns to participate in federal contracts. All other allegations of paragraph 74 are denied.

75. Denied.

76. DI admits that 15 U.S.C. § 645 provides “Offenses and penalties” for misrepresentation of small business status in certain contracts. It is denied that any misrepresentations occurred. All other allegations of paragraph 76 are denied.

77. It is denied that FAR 52.219-9 requires the submission of a small business subcontracting plan in every case. All other allegations of paragraph 77 are denied.

78. It is denied that FAR 52.219-9 requires the submission of periodic reports related to a subcontracting plan in every case. All other allegations in this paragraph are denied.

79. DI admits that Section H.14 of Contract 1 states, “The failure of the Contractor or subcontractor to comply in good faith with its subcontracting plan required by this contract shall be a material breach of the contract.” All other allegations of paragraph 79 are denied.

80. DI admits that a small business offeror is one that represents, though a written self-certification, that it is a small business concern under the NAICS code assigned in connection with a specific solicitation, and that has not been determined by the Small Business Administration (“SBA”) to be other-than-small. DI admits that the contracting officer accepts a small business offeror’s small business size status representation for a given solicitation unless the SBA has determined the offeror is an other-than-small for that solicitation. All other allegations of paragraph 80 are denied.

81. Denied.

82. DI admits that, in determining whether an entity qualifies as a small business concern in connection with a size protest pertaining to a services-based procurement, the SBA determines whether the entity's annual receipts are at or below the revenue size standard associated with the NAICS code assigned for the procurement by adding the entity's receipts for each of its last three completed fiscal years and dividing that figure by three. DI admits that 13 C.F.R. § 121.103 pertains to the concept of affiliation and that the SBA will refer to this regulation to determine whether an entity qualifies as a small business concern. All other allegations of paragraph 82 are denied.

83. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

84. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

85. It is denied that any false representations were made or fraudulent intentions existed. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

86. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

87. It is denied that any "scheme" existed. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

88. Denied.

89. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the allegations of this paragraph.

90. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

91. DI admits the first sentence of this paragraph. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations of this paragraph and therefore denies the same.

92. DI admits the first sentence of this paragraph, except to deny the date of award was July 11, 2011. It is denied that any false representations were made. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

93. Denied.

94. It is denied that any small business functions were “guttled.” As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

95. It is denied that DI or GLS possessed any “pre-award intention to deny the Small Business Defendants any meaningful role.” As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

96. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

97. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

98. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

99. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

100. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

101. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

102. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

103. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

104. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

105. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

106. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

107. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

108. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

109. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

110. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

111. It is denied that any false representations occurred. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

112. It is denied that any “usurpation of all meaningful functions of the Small Business Defendants” occurred. As to the other allegations in this paragraph, DI lacks knowledge or

information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

113. Denied.

114. The first sentence of paragraph 114 is denied. DI admits that the DLITE Prime Contract program ceiling was stated as \$9,700,000,000.00 and admits that the TIMS Prime Contract stated that the maximum order was \$4.645 billion. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations in this paragraph and therefore denies the same.

115. It is denied that any “usurpation of functions” occurred. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

116. It is denied that any “usurpation” occurred. As to the other allegations in paragraph 116, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

117. Denied.

118. Denied.

119. Denied,

120. Denied.

121. Denied.

122. Denied.

123. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

124. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

125. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

126. It is denied that DI “colluded to circumvent Kuwaiti law.” The remaining allegations of paragraph 126 are denied.

127. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations of this paragraph and therefore denies the same.

128. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations of this paragraph and therefore denies the same.

129. It is denied that any “sham” or fraudulent intentions existed. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

130. It is denied that any false representations occurred. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

131. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

132. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

133. The second sentence of this paragraph is denied. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

134. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

135. Denied that any misrepresentation occurred. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

136. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

137. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

138. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

139. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

140. It is denied that GLS or DI breached its contract. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

141. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

142. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations of this paragraph and therefore denies the same.

143. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

144. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

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149. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

150. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

151. Denied that any threats were made. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

152. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

153. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

154. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

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156. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

157. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

158. Denied that any coercion or “indefinite detention” occurred. As to the other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

159. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

160. DI admits that Contract 1 states, at Section H.1, “Security Requirement” that “The contractor shall maintain and administer a security program in accordance with the National

Industrial Security Program Operations Manual (NISPOM) DoD 5220.22-M.” Admit that Section 3 of the NISPOM Manual¹ DoD5220.22-M states, “A U.S. company is considered under FOCI whenever a foreign interest has the power, direct or indirect, whether or not exercised, and whether or not exercisable through the ownership of the U.S. company's securities, by contractual arrangements or other means, to direct or decide matters affecting the management or operations of that company in a manner which may result in unauthorized access to classified information or may adversely affect the performance of classified contracts.” All other allegations of paragraph 160 are denied.

161. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations of this paragraph and therefore denies the same.

162. DI admits that Contract 1 requires a security program in accordance with NISPOM DoD 5220.22-M. As to the other allegations of paragraph 162, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

163. Denied.

164. DI admits that Section 841 of the National Defense Authorization Act for Fiscal Year 2008 established the Commission on Wartime Contracting. As to all other allegations in this paragraph, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

165. DI admits that the transcript of the August 12, 2009 meeting of the Commission on Wartime Contracting (“CWC hearing transcript”) ascribes testimony to John Houck, President of GLS; John Isgrigg, Deputy Director for Contracting, United States Army Intelligence and Security Command; April Stephenson, Director, Defense Contract Audit Agency; and other

¹ This language is taken from the February 2006 NISPOM Operating Manual (incorporating Change 2, May 18, 2016).

witnesses. DI admits that the August 12, 2009 hearing was related to “Linguist Support Services.” As to all other allegations of paragraph 165, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

166. Denied.

167. It is denied that any false testimony was given or any false claims were made. DI admits the CWC hearing transcript states, “Commissioner Gustitus. Okay. My sense of this contract, by the way, is that in essence GLS is basically leasing the linguists from these subcontractors. You are doing all of the work in identifying them, training them, managing – you said support but essentially you are doing all of that work. Mr. Houck. Yes, ma’am. Commissioner Gustitus. And these subcontractors are essentially paying them. And the essence it seems to me if you really cut through all of this is that you needed a lot of linguists, they had the linguists, and you needed to lease them to be able to perform under your contract. Are they GLS employees or are they subcontractor employees? Mr. Houck. Other than the 700-plus linguists that are working for L-3 or other subcontractors, they would be GLS employees. Approximately 60 percent of the linguists that we provide are provided for our subcontractors and they are employees of those subcontractors. Commissioner Gustitus. I thought you just said that they were employees of GLS but for L-3’s linguists. Did I miss something? Mr. Houck. I am sure I misspoke, ma’am. Sixty percent of the linguists that we provide are provided through the subcontractors and they are employees of those subcontractors. The other 40 percent are GLS employees.” All other allegations of paragraph 167 are denied.

168. Denied.

169. DI admits the CWC hearing transcript states: “Commissioner Green. Okay. Mr. Houck, to you. For the other subcontractors, are there any functions – any functions that are subcontracted – further subcontracted? Mr. Houck. No, sir. Commissioner Green. Okay. Every one of these subcontractors is performing all of the functions that they have been responsible

for performing. Mr. Houck. Yes, sir. To the best of my knowledge that is correct.” All other allegations of paragraph 169 are denied.

170. Denied.

171. It is denied that any false statements were made. DI admits the CWC hearing transcript states, “Commissioner Green. . . . I do not want to beat a dead horse, Mr. Houck, but you just made a comment about the difficulty of a small company, a subcontractor, managing the HR stuff I think was your term. I just want to make sure that we do not have additional subcontractors, or if we do they are identified. Because I, you know, having worked with a lot of small businesses, payroll is complicated, for example. Many of these other administrative HR functions are complicated. And many small businesses – and maybe yours are all exceptions - many small business do not have the technical expertise to do those mechanical things. Mr. Houck. If one of your small businesses or any of our companies’ subcontractors are using a third tier company to process payroll or anything else, I am not aware of it, sir.” All other allegations of paragraph 171 are denied.

172. Denied.

173. Denied.

174. DI admits the CWC hearing transcript states, “Commissioner Henke. . . . I would think of it like this. . . . If the payroll was \$100, you would add to that, Mr. Miiller, 9.5 percent up to 7.5 percent as an award-fee, hand that number to Mr. Houck, who takes the new number, adds his indirect of 15.6 percent, and adds possibly a 7.5 percent fee, which includes the fee on the fee. Right? Mr. Houck. The concept is correct. . . .” As to all other allegations in paragraph 174, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

175. Denied.

176. Admit the CWC hearing transcript states, “Commissioner Henke. . . . Your [Ms. Stephenson’s] testimony . . . and let me just summarize and ask you a question. GLS awarded

\$2.9 billion to 18 subs. If I am looking at the math right, about \$2.8 billion was just payment for linguists. It was not medical exams or – Ms. Stephenson. Right. Commissioner Henke. – testing or recruiting or – Ms. Stephenson. It was the payroll function. It was to take – Commissioner Henke. A linguists, right. Ms. Stephenson. Take what GLS said, these people need to be paid, and then they turn around and pay them. Commissioner Henke. Right. So, \$2.8 billion just to move payroll around. That is 18 subcontractors, but 12 subcontractors do not hire, manage, or interact with the linguists other than to pay the amount stipulated by the prime contractor. Ms. Stephenson. That is correct. . . . Commissioner Henke. But, to me, if I am a linguist forward deployed, let us say I am an employee of L-3, I have a legal relationship with them, but GLS tells L-3 pay Bob his payroll, and then what happened? Who is moving the money to who? Ms. Stephenson. GLS moves it to the subcontractor, who then moves it to the linguists.” As to the other allegations in paragraph 176, DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

177. Denied.

178. Denied.

179. Denied.

180. Denied.

181. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

182. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

183. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

184. Denied.

185. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

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487. DI lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and therefore denies the same.

All allegations not admitted or denied above are denied.

COUNT I

488. DI responds to the allegations of this paragraph in the same manner as set forth above in this Answer.

489. Denied.

490. Denied.

491. Denied.

492. Denied.

493. Denied.

494. Denied.

495. Denied.

496. Denied.

497. Denied.

498. Denied.

499. Denied.

500. Denied.

501. Denied.

502. Denied.

503. Denied.

504. Denied.

505. Denied.

506. Denied.

507. Denied.

508. Denied.

509. Denied.

510. Denied.

511. Denied.

512. Denied.

513. Denied.

514. Denied.

515. Denied.

516. Denied.

517. Denied.

518. Denied.

519. Denied.

520. Denied.

521. Denied.

522. Denied.

523. Denied.

COUNT II

524. DI responds to the allegations of this paragraph in the same manner as set forth above in this Answer.

525. Denied.

526. Denied.

527. Denied.

528. Denied.

529. Denied.

530. Denied.

531. Denied.

532. Denied.

533. Denied.

534. Denied.

535. Denied.

536. Denied.

537. Denied.

538. Denied.

539. Denied.

540. Denied.

COUNT III

Count III was dismissed by the Court and no response is required, however, to the extent that a response is required:

541. DI responds to the allegations of this paragraph in the same manner as set forth above in this Answer.

542. Denied.

543. Denied.

544. Denied.

545. Denied.

546. Denied.

547. Denied.

COUNT IV

548. DI responds to the allegations of this paragraph in the same manner as set forth above in this Answer.

549. Denied.

550. Denied.

551. Denied.

552. DI admits that 18 U.S.C. § 1589(a) states: “Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means – (1) by means of force, threats of force, physical restraint, or threats of physical restraint, or threats of physical restraint to that person or another person; (2) by means of serious harm or threats of serious harm to that person or another person; (3) by means of the abuse or threatened abuse of law or legal process; or (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint, shall be punished as provided under subsection (d).” All other allegations of this paragraph are denied.

553. Denied.

554. DI admits that 18 U.S.C. § 1592(a) states: “Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person—” and, “to prevent or restrict or attempt to prevent or restrict, without lawful authority, the person’s liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000[.]” All other allegations of this paragraph are denied.

555. Admit that 22 U.S.C. § 7109a states: “An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis” and, “. . . all applicable data collected by each Federal department and agency represented on the Interagency Task Force to Monitor and Combat Trafficking” All other allegations in this paragraph are denied.

556. Denied.

557. Denied.

558. Denied.

559. Denied.

560. Denied.

561. DI admits that 48 C.F.R. 252.222-7002, "Compliance with local labor laws (overseas)" states, "The Contractor shall comply with all — (1) Local laws, regulations, and labor union agreements governing work hours; and (2) Labor regulations including collective bargaining agreements, workers' compensation, working conditions, fringe benefits, and labor standards or labor contract matters." All other allegations of paragraph 561 are denied.

562. DI admits that an available English Translation of a New Private Sector Labor Law No. 6 of 2010 with Explanatory Memorandum states, ". . . the replacement of the expatriate labour force by the national labour force – whenever it can be possible --" and "is one of the main objectives of the State that should finally be achieved." All other allegations of paragraph 562 are denied.

563. DI admits that an available English Translation of a New Private Sector Labor Law No. 6 of 2010 with Explanatory Memorandum, Chapter II, Article 10 states, "The employer is banned to employ foreign labour force unless they are duly authorized by the Competent Authority to work for him. . . ." All other allegations in this paragraph are denied.

564. DI admits that an available English Translation of a New Private Sector Labor Law No. 6 of 2010 with Explanatory Memorandum, Chapter II, Article 10 states, "An employer shall not recruit labourers from outside the country or appoint labourers from inside the country without making them to work for him. If it is evident that he is not actually in need of those labourers, in this case, the employer shall bear the expenses for returning the labourer to his country. If the worker abandons coming to his work and worked for another employer, the employer shall be obliged to return the employer back to his home country, upon registering an

absconding notice against the work by his main sponsor.” All other allegations of paragraph 564 are denied.

565. Denied.

566. Denied.

567. Denied.

568. Denied.

569. Denied.

570. Denied.

571. Denied.

572. Denied.

573. Denied.

574. Denied.

575. Denied.

576. Denied.

577. Denied.

578. Denied.

579. Denied.

580. Denied.

581. Denied.

582. Denied.

583. Denied.

584. Denied.

585. Denied.

586. Denied.

587. Denied.

588. Denied.

589. Denied.

590. Denied.

591. Denied.

592. Denied.

593. Denied.

DI denies all allegations not specifically admitted or denied herein.

PRAYER FOR RELIEF

WHEREFORE, having fully answered Relator's allegations, DI denies that Relators are entitled to a jury trial on all of the issues presented by the Complaint. DI also denies that Relators are entitled to any relief whatsoever and specifically denies that Relators are entitled to the relief sought in the requests for relief set forth in the FAC. The FAC should be dismissed with prejudice at Relators' costs and attorneys' awarded fees to DI. DI requests such other and further relief as may be just and proper in the circumstances.

Sixteenth Defense

DI reserves the right to raise any additional defenses, counter-claims, and thirty-party claims not asserted herein of which DI may become aware through discovery or other investigation.

Respectfully submitted,

THOMPSON COBURN LLP

By /s/ Jan Paul Miller

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Attorneys for DynCorp International LLC

CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2019, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system to all counsel of record.

By /s/ Jan Paul Miller